

**Order entered January 18, 2022**



**In The  
Court of Appeals  
Fifth District of Texas at Dallas**

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**No. 05-21-00242-CV**

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**IN THE INTEREST OF M.C.M. AND M.A.M., CHILDREN**

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**No. 05-21-00360-CV**

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**MOLLY WILKERSON, Appellant**

**V.**

**MARK MALDONADO, Appellee**

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**No. 05-21-00373-CV**

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**IN THE INTEREST OF M.C.M. AND M.A.M., CHILDREN**

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**On Appeal from the 366th Judicial District Court  
Collin County, Texas  
Trial Court Cause Nos. 366-53554-2020, 366-51795-2021, and 366-50778-2021**

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**ORDER**

After affirming in these three appeals the trial court's order sustaining the contest to appellant's statement of inability to pay costs, we granted appellant's motion for a partial reporter's record, cautioned her, in part, that any additions to

the record requested by another party will be at appellant's expense, and ordered her to file a statement of points or issues to be presented on appeal. *See* Tex. R. App. P. 34.6(c), (c)(3), (4). Appellant complied, and the reporter's records in all three appeals were filed on November 9.

On November 15, appellee notified the court reporter of his request for the *entire* reporter's record in all three appeals, and subsequently informed the Court that appellant disagreed she needed to pay for the additional record. By orders dated December 9, 2021 and January 10, 2022, we ordered the court reporter to file either the requested additional reporter's records or written verification that appellant had not paid for those records. By letter filed January 11, the court reporter verified that appellant had not paid for the records.

Upon further review, we conclude that appellee must pay for the additional reporter's records that he has requested. Rule 34.6(c)(3) provides that additions to a partial reporter's record requested by another party must be included in the reporter's record at the appellant's cost. *See id.* 34.6(c)(3).<sup>1</sup> However, this rule has been construed to mean that when the appellant requests a partial record, other parties may designate additional portions to be included in the reporter's record at the appellant's cost *if* the designation is made *before* the reporter's record is prepared and filed in the appellate court. *See Aldous v. Bruss*, 440 S.W.3d 90, 93 (Tex. App.—Houston [14th Dist.] 2012, order) (per curiam); *Johnson v. Alcon*

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<sup>1</sup> We note that rule 34.6(c)(3) does not affect the appellate court's power to tax costs differently. *See* Tex. R. App. P. 34.6(c)(3).

*Lab., Inc.* 149 S.W.3d 653, 654 (Tex. App.—Fort Worth 2003, order). After the partial reporter's record has been filed, however, relevant portions of testimony that are not included in the reporter's record may only be added through supplementation pursuant to Texas Rule of Appellate Procedure 34.6(d), and the requesting party must pay for the supplemental reporter's record. *Aldous*, 440 S.W.3d at 93; *Johnson* 149 S.W.3d at 654; TEX. R. APP. P. 34.6(d); 35.3(b)(3).

Accordingly, we **VACATE** this Court's December 9 and January 10 orders. We now order Antoinette Varela, Official Court Reporter for the 366th Judicial District Court, to file, **WITHIN THIRTY DAYS** of the date of this order, either the additional reporter's records requested by appellee or written verification that appellee has not paid the fee for preparing those records. We caution appellee that if we receive written verification of non-payment, the appeals will be submitted on the record currently before the Court.

We **DIRECT** the Clerk of this Court to send a copy of this order to Ms. Varela and all parties.

/s/     ROBERT D. BURNS, III  
CHIEF JUSTICE